

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States District Court
Southern District of Texas
FILED

SEP 19 2018

United States of America)

v.

Daniel MARTINEZ)

YOB: 1983)

usc)

Case No.

M 18-1951-M

David J. Bradley, Clerk

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 31, 2018 thru August 9, 2018 in the county of Hidalgo in the
Southern District of Texas, the defendant(s) violated:*Code Section*

18 USC Section 924(a)(1)(A)

*Offense Description*Did knowingly and unlawfully make false statements or representations with
respect to the information required to be maintained by a federal firearms
licensee.

This criminal complaint is based on these facts:

See Affidavit

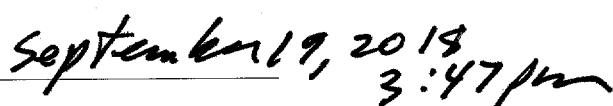
 Continued on the attached sheet.9-19-2018
Approved AUSA R. Wells
Complainant's signature

Cesar Zambrano Special Agent ATF

Printed name and title

Sworn to before me and signed in my presence.

Date:


September 19, 2018
3:47 pm
Peter E. Ormsby United States Magistrate Judge
Judge's signature

City and state:

McAllen, Texas

Peter E. Ormsby United States Magistrate Judge
Printed name and title

ATTACHMENT A

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, Cesar Zambrano, being duly sworn, do hereby state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent of the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and have been so employed since February 3, 2010. I am currently assigned to the McAllen III Field Office.
2. My duties include the investigation of violations of federal firearms laws. As a Special Agent I have conducted and participated in a variety of criminal investigations, including investigations associated with firearms trafficking.
3. This Affidavit is being submitted in support of a criminal complaint and an arrest warrant for DANIEL MARTINEZ, hereafter referred to as MARTINEZ, for violations of Title 18, U.S.C., Section 924(a)(1)(A), Making False Statements with Regards to Records Required to be Kept by Federal Firearms Dealers.

MARTINEZ is a Federal Firearms Licensee (FFL) and is the owner of Deez Guns, which is located in McAllen, Texas, in Hidalgo, County Texas.

4. I am aware of information contained in this Affidavit through direct participation in this investigation and information provided to me by other law enforcement officers and witnesses. Since this Affidavit is being submitted for the limited purpose of securing a criminal complaint and an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts I believe are necessary to support the issuance of a criminal complaint and an arrest warrant for MARTINEZ.

FACTS SUPPORTING PROBABLE CAUSE

5. Federal firearms licensees are required to keep and maintain their records, notable the ATF Form 4473. Every time a firearm is purchased from an FFL, the purchaser and FFL complete an ATF Form 4473; the 4473 documents who the firearm is being transferred to, the description of the firearm, and asks several questions that must be answered truthfully.

ATTACHMENT A

The purchaser must certify that their answers on ATF Form 4473 are true, correct and complete. Any false statement or representation made on ATF Form 4473, which is information required to be kept in the records of a federal firearms licensee, is a violation of 18 USC 924(a)(1)(A). Also, an FFL or employee violates Section 18 USC 924(a)(1)(A) when he/she knowingly allows an individual to make a false statement on the ATF Form 4473 and/or when he/she certifies the ATF Form 4473 when they indicate that it is their belief that it is not unlawful for he/she to sell, deliver, transport, or otherwise dispose of the firearm(s) to the person listed on the ATF Form.

6. On July 31, 2018, an ATF Undercover Agent (UC1) entered Deez Guns accompanied by a second UC (UC2) and made contact with MARTINEZ, who was the only person working at the time. UC1 told MARTINEZ that he was interested in purchasing an AK-47 rifle and asked to see one that was on the display wall. MARTINEZ handed the rifle to UC1 and told UC1 that the price was \$999. UC1 then asked MARTINEZ if MARTINEZ would give UC1 a discount if he paid cash like the last time. MARTINEZ told UC1 that he would lower the price. UC1 then told MARTINEZ that he would buy the firearm. MARTINEZ then retrieved an ATF Form 4473 and placed it on the counter in front of UC1. UC1 then directed his attention to UC2 and told him: "you do it". MARTINEZ then allowed UC2 to fill out ATF Form 4473 knowing that UC2 was not the actual buyer of the firearm. After a short time, MARTINEZ reviewed the ATF Form 4473 and told UC2 to sign and date the 4473 Form. MARTINEZ then proceeded to conduct the required NICS (National Instant Criminal Background System) checks. After receiving the results, MARTINEZ notified UC1 (who was the actual purchaser of the firearm) that the sale had been delayed. MARTINEZ also told UC1 that it would take up to five days to receive clearance. UC1 made arrangements with MARTINEZ to have the firearm held until UC2 returned to complete the purchase and prepaid MARTINEZ for the firearm.

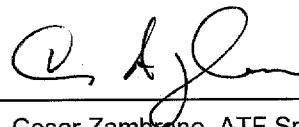
7. On August 6, 2018, UC1 and UC2 returned to Deez Guns to pick-up the firearm but were told by MARTINEZ that UC2 had been denied the sale due to failing the NICS background check. UC1 then asked MARTINEZ if he could have his money back. MARTINEZ told UC1 that he could not give him his money back that day because he need to go to the bank. UC1 then asked MARTINEZ if he could bring a different person (straw-purchaser) to buy the firearm for him. MARTINEZ told UC1 that it was fine with him.

ATTACHMENT A

8. On August 9, 2018, UC1 returned to Deez Guns with a different UC agent (UC3) and were again assisted by MARTINEZ. Upon entering the store, UC1 greeted MARTINEZ and told him that he brought a friend to sign the form for him and that UC3 had done it before so there wouldn't be any problems. MARTINEZ then placed an ATF form 4473 on the counter, at which time UC1 told UC3: "fill it out". MARTINEZ then knowing that UC3 was not the actual purchaser of the firearm, provided UC3 with the ATF Form 4473 and UC3 began to fill it out. After a short time, MARTINEZ notified UC1 that UC3 had received a "proceed". UC1 then expressed his approval by saying to MARTINEZ: "we're good now". MARTINEZ then placed the AK-47 rifle in its case and handed it to UC1 while asking him if he wanted extra magazines for it. UC1 exited the store carrying the rifle.

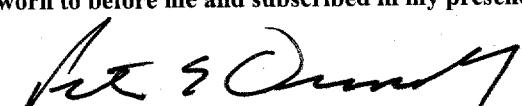
CONCLUSION

9. Based on my previous investigative experience and the above information, I submit there is probable cause that on or about July 31, 2018 thru August 9, 2018, DANIEL MARTINEZ was in violation of Title 18, U.S.C., Section 924(a)(1)(A), Making False Statements or Representations with Respect to the Information Required to be Kept by Federal Firearms Licensees.



Cesar Zambrano, ATF Special Agent

Sworn to before me and subscribed in my presence,



Peter E. Ormsby, U.S. Magistrate Judge

